

Land Conservation

In recent years Land Conservation has grown to the point that it now rivals development for the number of acres acquired every year. Across the United States, over 37 million acres have been preserved, with almost 13 million of those in the last 5 years alone.

Land conservation is not about the Government or Environmentalists trying to take your land or dictate how you can use it. Land conservation is about land owners making informed decision to institute reasonable, economically sound, land planning strategies and in some instances getting compensated by governmental grants and other funding sources for doing nothing more than continuing to farm or ranch.



What does “Land Conservation” mean? It means that you have taken some affirmative step to limit the control or use of *all or a portion* of your land.

- * That can mean putting a restriction on your entire ranch land that never allows it to be developed.
- * It can mean putting a restriction on just the 100 feet of riverfront behind your house.
- * It can mean putting a restriction on your land that allows for limited development through chosen building sites, but reserves the rest of the land as open space.
- * In short, **it means almost anything**, from very small conservation projects to complete land conservation.

What is a Conservation Easement? A Conservation Easement is simply a restriction that you place on your deed that prevents your property from being developed.

What is a Term Easement? A term easement is an easement for a set number of years. When it expires, the fee is again whole. Term easements do not qualify for IRS tax deductions, but can be used as mechanisms to hold the property until additional funding sources or development pressures are better understood.

Does a Conservation Easement prevent ALL development? No. They are extremely flexible and can allow for some development or none at all, you choose. In some cases, you can reserve house lots that actually provides for future use and value. Or, if you only want the easement to apply to the “back-40” you can do that.

Are there options besides Conservation Easements that will protect my land?

Yes. There are numerous ways to protect your land, but the Conservation Easement is the most visible and well used of the land preservation tools.

Why do it? The main reason is they love the land and want to see it protected to some degree. Additionally, income tax deductions and estate tax considerations can make land conservation not only a good idea, but also financially prudent, especially if you need options for passing the land to the next generation without having to sell it just to pay the taxes.

Is it only for special property? No. Conservation Easements are not just for pristine riparian habitat. They are for working ranches, agriculture and other open space property.

Do I have to sell my land? No. Often times, ranchers and farmers only sell off what is commonly called the “development rights”. In general terms, Development Rights is a short-hand way of saying - the right to turn your ranch or farm into a subdivision. This means you can continue to live, ranch, farm, pass to your heirs and even sell the land.



What are the benefits? There are a lot of benefits and they can include:

- 1) If you sell the conservation easement, you receive money at market rates for the rights you have sold.
- 2) If you donate an easement, you may receive certain tax benefits, which can be up to 100% of your adjusted gross income.
- 3) The land is forever protected from encroaching development.
- 4) The land is protected pursuant to YOUR plan.
- 5) The land is further protected from being sold just to pay the estate taxes.

When do I need to do one? Conservation easements are very flexible can be done during your lifetime, in your will or even post-mortem before the estate is settled with the IRS. However, regardless of the timing, it is essential to get them “ready to go” while you are alive and your wishes can be implemented. It is important to note that if you do one before December 31, 2007, you may qualify for very generous tax deductions.

Who “owns” the Conservation Easement? The government or other non-profit that may hold the conservation easement does not own anything more than the right to enforce the terms of the easement. For example, if the easement provided for no development and the holder sees condominiums going up on the property, it can seek an immediate injunction. Under no circumstances does the easement enable the holder to build on the property. In fact, the holder’s right to access the property is limited to the purpose of the easement only.